

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 7/23/2013	(3) CONTACT/PHONE Greg Camack, Resource Protection Specialist II/ (805) 788-2006	
(4) SUBJECT Hearing to consider an Order to Abate Nuisances on the property at 480 Mesa Grande Drive, Shandon, California, owned by Respondents F. James and Rosann Inguito. District 1			
(5) RECOMMENDED ACTION It is recommended that your Board adopt and instruct the Chairman to sign the resolution approving the findings in Exhibit A and adopting the order in Exhibit B as found in Attachment 1 of this report.			
(6) FUNDING SOURCE(S) Department Budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent { } Presentation {X} Hearing (Time Est. <u>1 hour</u>) { } Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS {X} Resolutions { } Contracts { } Ordinances { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5th's Vote Required {X} N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY {X} N/A Date: <u> </u>	
(17) ADMINISTRATIVE OFFICE REVIEW Reviewed by Leslie Brown			
(18) SUPERVISOR DISTRICT(S) District 1 -			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Greg Camack, Resource Protection Specialist

VIA: Matt Janssen, Division Manager, Building Division

DATE: 7/23/2013

SUBJECT: Hearing to consider an Order to Abate Nuisances on the property at 480 Mesa Grande Drive, Shandon, California, owned by Respondents F. James and Rosann Inguito. District 1

RECOMMENDATION

It is recommended that your Board adopt and instruct the Chairman to sign the resolution approving the findings in Exhibit A and adopting the order in Exhibit B as found in Attachment 1 of this report.

DISCUSSION

The item before your Board is a request to consider ordering an abatement of nuisances on the property commonly at 480 Mesa Grande Drive, Shandon, California (Property).

The Property is approximately 0.35 acres in size and is zoned Residential Single Family. It is located on Mesa Grande Drive, near the intersection of Mesa Grande Drive and Punta Gorda Place (Tract 42) and is within the Shandon-Carrizo Planning Area. A Grant Deed recorded on March 26, 1999 (Attachment 10) indicates the Property is co-owned by F. James Inguito and Rosann Inguito (Respondents). The Respondents have been notified of the violations and of this hearing by means of a Notice of Violation (Attachment 2), a Notice of Nuisance (Attachments 2 & 3) and a Notice of Nuisance Abatement (Attachment 4). The reissued (explained later in this staff report) Notice of Nuisance and Notice of Nuisance Abatement were recorded, mailed and site posted in accordance with the provisions of Section 22.74.070 of the San Luis Obispo County Code (County Code).

The nuisances consist of the following violations of the County Code:

- (1) An incomplete unpermitted two story residential structure determined to be unsafe and unsecured against entry in violation of:
 - California Building Code (CBC) Sections 105.1 and 105.5 – Permit required (Pursuant to County Code Section 19.01.040, the County adopted and made a part of the County Code, the CBC); and
 - International Property Maintenance Code (IPMC) Section 301.3 – Vacant structures and lands must be kept in a safe, clean and secure condition (Pursuant to County Code Section 19.01.040, the County adopted and made a part of the County Code, the IPMC).
- (2) Outdoor or unsafe storage of vehicles, recreational vehicles, junk, debris, materials, trash, containers and other items in violation of:
 - County Code Section 22.30.040 – An accessory use shall not be established unless a principal use has first been established;

- County Code Section 22.30.040.F. – Stockpiled materials, scrap and junk shall occupy an area not greater than 500 square feet;
- IPMC Section 301.3 – Vacant lands and structures must be kept in a safe, clean and secure condition.

Investigation Summary

Sometime in 2002, a fire destroyed the single family residence located on the Property (only the garage was left mostly undamaged). The residence remained unrepaired for many years reportedly due to a dispute between the Respondents and their insurance company. The Respondents finally obtained construction permit PMT2006-00855 (Permit) to rebuild the residence in November 2007. Since that time, the Permit has expired a number of times, most recently in November 2012.

Over the years, staff has made many attempts to work with the Respondents to resolve the violations associated with the uncompleted residence. However, it now appears that the Respondents have abandoned the Property. In addition to leaving the structure unsecured against entry, the Respondents have left trash, a recreational vehicle and related equipment, materials and other items. Third parties also appear to be using the abandoned Property to dispose of trash, etc. (Attachments 5, 6, 7, & 8).

As set forth in detail in this staff report, after receiving notice of the most recent expiration of the Permit, staff made many unsuccessful attempts to contact the Respondents and the mortgage holder to resolve the violations.

Investigation

On November 29, 2012, Code Enforcement staff received notification that the Permit had expired because the Respondents failed to complete the construction or call for inspections within the time frames required by Title 19 of the County Code. Research revealed that the Permit had expired and been reactivated on at least three other occasions. As a condition of each reactivation, Respondents paid additional fees and agreed to meet certain requirements.

On November 29, 2012, staff sent a Notice of Violation (NOV) (Attachment 2) to the Respondents describing the violations on the Property and advising them of the steps necessary to bring the Property into compliance and the date by which compliance must be established. The NOV was first sent to the address shown on the last equalized assessment role consistent with Section 22.74.070 of the County Code. The NOV was returned by the postal service with an attached forwarding address in Colorado.

On December 3, 2012, staff sent an email to the only email address that could be located for the Respondents (Attachment 9). In this correspondence, staff requested that Respondents identify any lender with an interest in the Property. Staff received no response.

On December 11, 2012, staff enlisted the services of Compliance Connections (Compliance), a company that assists code enforcement in locating owners of, or parties with, an interest in properties with existing code enforcement violations. Compliance notified staff that its records evidenced a possible connection between Argent Mortgage Company, LLC (Argent), the beneficiary under the recorded deed of trust, and Citi Bank. Compliance sent a letter to Citi Bank inquiring into whether it had an interest in the Property.

On December 10, 2012, staff resent the NOV, by both certified and standard mail, to the Respondents at the forwarding address in Colorado. Per United States Postal Service (USPS) Tracking Records, sometime between December 10, 2012 and January 14, 2013, the NOV was delivered to the Respondents at this address, however no signature card was returned.

On December 21, 2012, staff received a written response from Citi Bank indicating that it had no record of the Property and requesting additional information, e.g. a copy of the deed of trust (Attachment 15).

On December 31, 2012, after receiving no response to the NOV, staff posted on site and sent a Notice of Nuisance (NON) (Attachment 3) to the Respondents at the Colorado address and to Argent. As indicated above, Argent is the beneficiary under the only recorded deed of trust on the Property (Deed of Trust). The Deed of Trust was recorded on February 25, 2004 and secures a loan in the amount of \$183,750.00 (Attachment 11). Staff sent the NON to Argent at one of the addresses listed in the Deed of Trust.

On January 3, 2013, staff called and spoke with a representative of Citi Bank in the Property Preservation Division. During this conversation, in response to Citi Bank's prior request, staff provided the Respondent's names, the assessor's parcel number for the Property, the address of the Property and a copy of the Deed of Trust. Although all requested information was provided, the representative was still unable to find the Property in Citi Bank's system and stated that a more "local" representative would contact staff to explore the issue further.

On January 5, 2013, per USPS Tracking records (Attachment 3), the NON sent to the Respondents' Colorado address by certified mail was delivered. The signature card was later returned.

On January 14, 2012, the NON sent by certified mail to Argent was returned as undeliverable and no forwarding address was provided.

On February 4, 2013, after no further contact from Citi Bank, staff telephoned the representative with whom they had previously spoken and left a message reminding him of their conversation. Staff never received a response from the representative or any other agent of Citi Bank.

On February 19, 2013, staff received an email from Mike Hamm at Safeguard Properties (Safeguard) whose inspector had witnessed the NON posted on the Property (Attachment 16). Mr. Hamm stated that the Property was entering foreclosure and Safeguard was working with Residential RealEstate Review (Residential), a company that specializes in providing valuation and inspection products for lenders. Mr. Hamm requested that staff identify the violations on the Property and explain what was needed to bring the Property into compliance.

On the same day, staff provided Mr. Hamm via email with an explanation of the nature of the violations, how they could be corrected and attached a copy of the NOV as well as with a copy of the NON for his review. Staff further advised that a hearing date was currently scheduled for April 16, 2013 but could be canceled if work was done or an agreement was made before that time (Attachment 17).

On February 26, 2013, after receiving no response from Mr. Hamm, staff called him to discuss the Property and the violations, as well as to remind him of the upcoming hearing date. Mr. Hamm confirmed receipt of the email with attached notices and told staff that he had forwarded a work and cost estimate to Residential based on staff's email and notices. He stated that he was now waiting for approval to send that work order out, but expected it to be up to two weeks or more before he received a response to that authorization request.

On March 5, 2013, staff sent a follow-up email to Mr. Hamm (Attachment 18) inquiring into whether any approvals had been authorized by Residential, to remind him that the hearing date for the Nuisance Abatement was still set for April 16, 2013 and to request the name and contact information for the current holder of the Deed of Trust, so that a copy of the Notice of Nuisance Abatement (NONA) could be sent to them (if other than Argent).

On March 6, 2013, Mr. Hamm responded (Attachment 19) with the mailing address requested for Residential which he identified as "the client" (not the lender). Mr. Hamm made no indication of whether Residential had approved any clean-up and/or securing of the structures or Property.

On March 6, 2013, staff conducted an inspection of the Property and observed little or no change.

On March 19, 2013, staff sent a NONA (Attachment 4) to the Respondents at the Colorado address and to Residential at the address provided by Mr. Hamm.

On March 20, 2013, staff site posted the NONA and reviewed the Property for any compliance changes, but found none.

During a telephone conversation on March 28, 2013, Mr. Hamm told staff that the most Residential would potentially do, prior to culmination of the foreclosure proceedings, would be to fence the perimeter of the Property.

After reviewing the file, County Counsel advised that the notification process should be reinitiated in order to insure that all parties identified in Section 22.74.070 of the County Code were properly noticed.

On April 8, 2013, staff prepared and recorded a replacement NON (Attachment 12) and sent the NON to the record owner of the Recreational Vehicle (RV) located on the Property (Attachment 13).

On April 9, 2013, staff mailed the replacement NON to the following parties:

- (1) Respondents – to the Colorado forwarding address;
- (2) Argent – to both addresses identified in the Deed of Trust and to the three addresses on file with the Secretary of State;
- (3) Residential – to the address provided by Mr. Hamm;
- (4) County of Santa Barbara Treasurer-Tax Collector (as the Treasurer-Tax Collector recorded an Abstract of Judgment against the Property in the amount of \$1,122.07).

The NON describes the violations and what actions must be taken to resolve those violations in order to avoid a nuisance abatement hearing.

On April 10, 2013, staff site posted the replacement NON and, while there, reviewed the Property for any change in status.

On April 11, 2013, the record owner (Sydney Wattles) of the RV located on the Property called staff in response to the notice sent to him on April 8, 2013. Mr. Wattles claimed that he sold the vehicle nearly five years ago and had no interest in regaining possession.

On April 15, 2013, five of the seven record cards for the replacement NON sent certified mail were returned as delivered and two were returned as undeliverable

On May 22, 2013, staff inspected the Property after the compliance deadline set forth in the replacement NON elapsed. At that time, the Property remained open to unlawful and/or unsafe access with continued storage violations. Staff also found that the first set of notices posted on the Property had been removed by unknown parties.

On June 20, 2013, staff received a call from a neighboring property owner who reported seeing two small children playing inside and on the recreational vehicle and a trash pile. The neighbor stated that the Property poses a great danger and fears that failure to secure and clean up the Property could result in injury or death.

As of the date on which this staff report was prepared, staff had not been contacted by any of the parties to whom the replacement NON was sent (with the exception of Mr. Wattles).

As of the date on which this staff report was prepared, staff has not yet reissued a NONA, because Section 22.74.150 D of the County Code provides that the NONA must be served not less than ten and not more than thirty days prior to the scheduled hearing date. Staff will post on site, record and send a NONA (to all of the addresses to which the reissued NON was sent) within the prescribed time frame.

Conclusion

Respondents continue to maintain the Property in violation of the County Code. They have been legally noticed and have signed for notices sent via certified mail. Respondents are the sole owner of record of the Property. Although they appear to have abandoned the Property, no formal foreclosure proceedings have begun (no Notice of Default or Notice of Trustee's Sale has been recorded). Consequently, staff recommends that your Board affirm the findings in Exhibit A and adopt the Order in Exhibit B as found in Attachment 1 of this report.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel has reviewed the staff report, findings and Board order and reviewed and approved the resolution as to form and legal effect.

FINANCIAL CONSIDERATIONS

The financial considerations will be addressed at a separate Board of Supervisors hearing if Respondents fail to comply with the recommended order. In accordance with the provisions of Section 22.74.150 of the County Code, staff will obtain an administrative warrant, conduct an inventory of the Property and entertain proposals to abate the nuisances.

Once a satisfactory proposal is chosen, staff will return to the Board of Supervisors to request funding for the abatement. After the abatement, a statement of costs will be presented to the Board at an additional hearing. Costs approved at this hearing, including staff and administrative time, will be billed to the Respondents, who will be allowed 30 days to pay the bill. Any failure to do so will result in the recordation of a lien, the amount of which will be entered on the assessment roll as a special tax assessment.

RESULTS

Approval of the findings in Exhibit A and adoption of the recommendations in Exhibit B will result in your Board finding that nuisances, as defined in the County Code, exist on the Property and your Board ordering that the nuisances be abated.

Upon receipt of the signed Board Order, the Respondents must perform according to the Order. If they do not, staff, with a judge ordered administrative warrant, will abate the nuisances, per the provisions of County Code Section 22.74.150 E, and all violations outlined in the Board Letter will be resolved.

ATTACHMENTS

1. Board of Supervisors Resolution with Findings and Order
2. Notice of Violation
3. Notice of Nuisance, Document No. 2012-077217
4. Notice of Nuisance Abatement, Document No. 2013-015361
5. Site Photo #1
6. Site Photo #2
7. Site Photo #3
8. Site Photo #4
9. 12-3-12 Email to Property Owner
10. Grant Deed, Document No. 1999-021947
11. Deed of Trust, Document No. 2004-014241
12. Notice of Nuisance, Replacement Document No. 2013-019928

13. Letter to RV Registered Owner
14. Notice of Nuisance Abatement #2, Document No. 2013-038105
15. Response Letter from Citi
16. 2-18-13 Email from Agent
17. 2-19-13 Staff Response Email
18. 3-5-13 Staff Request for Update
19. 3-6-13 Agent Response Email
20. Location Map